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August 19, 2015

The Honorable Mark Mazur  
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The Honorable William J. Wilkins  
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Washington, DC 20224

Re: **Report No. 1327 Relating to Two of the Proposed Revisions to the U.S. Model Tax Convention**

Dear Messrs. Mazur, Koskinen and Wilkins:

I am pleased to submit the attached report relating to two of the proposed revisions to the U.S. Model Tax Convention (the "Report"). The Report comments on a new proposed rule applicable to "special tax regimes" ("STRs") and on a new proposed rule that would apply in the event that either treaty partner enacted certain subsequent changes of law (the "Subsequent Change of Law" provision). Both of these proposals relate to what the United States Department of the Treasury (the "Treasury") has referred to as the "durability" of tax treaties.

Broadly speaking, the STR rules would deny treaty benefits with respect to payments between related persons of interest, royalties and items of income described in the "Other Income" article of the treaty if a treaty partner adopts a tax regime (which can include an administrative practice) that disproportionately benefits interest income, royalty income or Other Income. The Report recommends that the Treasury clarify

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certain aspects of the STR proposal, add a definition of “related person,” and add one or more *de minimis* rules. It further recommends that each country a party to a tax treaty provide notice to the other of its adoption of any new STR, with opportunity to consult in an effort to prevent the denial of treaty benefits.

The STR rules as proposed would deem any regime that provides a deduction for notional interest on equity to be an STR that disproportionately benefits interest income. The Report discusses some difficulties that this proposal presents, and suggests that the NID rule, if retained, be limited to finance companies.

The Subsequent Change of Law proposal would deny treaty benefits for dividends, interest, royalties and Other Income in the event that one treaty partner either lowered its generally-applicable tax rate to less than 15% or adopted a “pure” territorial tax system. The Report generally supports the Subsequent Change of Law proposal, suggesting a few clarifications. It suggests that the trigger tied to the reduction of a country’s tax rate below 15% be changed to a trigger that looks to a reduction of the country’s tax rate by a prescribed percentage of the rate in effect at the time the treaty was signed. Finally, the Report recommends that the Treasury consider eliminating a proposed rule that would deny treaty benefits reciprocally when only one country’s tax change triggers the application of the rule.

We appreciate your consideration of our recommendations.

Respectfully submitted,

David R. Sicular  
Chair

Enclosure

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